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| 10/706,285                                                                                                               | 11/13/2003  | Richard Greenfield   | 1875.3700001        | 5666             |
| 26111 7590 12/30/2009<br>STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.<br>1100 NEW YORK AVENUE, N.W.<br>WASHINGTON, DC 20005 |             |                      |                     |                  |
| EXAMINER                                                                                                                 |             |                      |                     |                  |
| ALIA, CURTIS A                                                                                                           |             |                      |                     |                  |
| ART UNIT                                                                                                                 |             | PAPER NUMBER         |                     |                  |
| 2474                                                                                                                     |             |                      |                     |                  |
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| 12/30/2009                                                                                                               |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Continuation of 11:

In response to Applicant's argument that the combination does not teach that the number of bits assigned to bit map B is based on a predetermined latency, the Examiner respectfully disagrees. In particular, Matsumoto discloses (col. 10, lines 55+) that the bitmap distribution is based on a smallest value of delay (reducing the delay time to a low transmission delay mode). This is interpreted by the Examiner as choosing the bit distributions between the two bitmaps such that the delay time is minimized to an acceptable level as needed by the low transmission delay mode. Therefore, it is the Examiner's best understanding that one of ordinary skill in the art at the time the invention was made would have been able to recognize this teaching in Matsumoto.

In response to Applicant's argument that the combination does not teach that the first bit rate is determined based on the second bit rate and the pre-determined maximum allowed transmission latency, the Examiner respectfully disagrees. Applicant explains (page 10) that the higher signal-to-noise ratio belongs to the second (assumed to be FEXT) noise phase. However, in the combination of Matsumoto and Long, the signal-to-noise ratio in certain circumstances is higher in the NEXT phase (as taught in column 3, lines 58-62 of Long). Therefore the bitmap B of Matsumoto (higher SNR NEXT phase bit map) is first determined based on the SNR of the NEXT phase (as taught in column 2, lines 19-30 of Okamura), then the remaining bits (minus any dummy bits) are assigned to bitmap A (which belong to the lower SNR FEXT phase, as understood from Long). Therefore, it is the Examiner's best understanding that one of ordinary skill in the art at

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the time the invention was made would have been able to understand these features from the combination of Matsumoto, Long and Okamura.

It seems that the Applicant intends to claim that the first noise phase is the NEXT phase and the second noise phase is the FEXT phase. If this is the case, it is suggested to explicitly claim the definition of the "first" and "second" noise phases to correctly correspond to the intended phases (NEXT, FEXT).

/Aung S. Moe/

Supervisory Patent Examiner, Art Unit 2474